

Message Text

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ACTION TRSE-00

INFO OCT-01 EUR-25 IO-14 ISO-00 SEC-03 SWF-02 AID-20

CEA-02 CIAE-00 COME-00 EB-11 FRB-02 INR-10 NSAE-00

RSC-01 CIEP-02 SP-03 STR-08 LAB-06 SIL-01 SAM-01

OMB-01 L-03 DRC-01 /117 W

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R 171735Z MAY 74

FM USMISSION EC BRUSSELS

TO SECSTATE WASHDC 6897

INFO AMEMBASSY BONN

AMEMBASSY BRUSSELS

AMEMBASSY COPENHAGEN

AMEMBASSY DUBLIN

AMEMBASSY LONDON

AMEMBASSY LUXEMBOURG

AMEMBASSY PARIS

AMEMBASSY ROME

AMEMBASSY THE HAGUE

USMISSION OECD PARIS

USMISSION GENEVA

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E.O. 11652: NA

TAGS: EFIN, EEC

SUBJECT: FOREIGN REGULATIONS OF FOREIGN BROKERS AND UNDERWRITERS

REF: STATE 079749

1. SUMMARY: THE REFTEL IS CORRECT THAT BROKERS ARE EXCLUDED FROM THE EC COUNCIL DIRECTIVE OF JUNE 28, 1973, ON THE ABOLITION OF RESTRICTIONS ON FREEDOM OF ESTABLISHMENT AND PROVISION OF SERVICES. THERE IS NO COMMUNITY-WIDE LEGISLATION OR REGULATION IN FORCE AT THIS TIME GOVERNING EITHER EC OR THIRD-COUNTRY BROKERS AND THEIR ACTIVITIES. A WORKING GROUP IS STUDYING

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THE PROBLEM BUT A DRAFT DICRETIVE FOR THE PRESENTATION TO THE

EC COUNCIL IS CONSIDERED AT LEAST THREE YEARS AWAY. END SUMMARY.

2. THE EC COUNCIL EXCLUDED BROKERS FROM THE DIRECTIVE ON FREEDOM OF ESTABLISHMENT BECAUSE IT BELIEVED REGULATIONS GOVERNING THEIR ACTIVITIES WITHIN THE COMMUNITY SHOULD BE HARMONIZED BEFORE BEING BROUGHT UNDER THIS DIRECTIVE. THE REFTEL IS ALSO CORRECT THAT BROKERS ARE TO BE THE SUBJECT OF A FUTURE DIRECTIVE. A WORKING GROUP ON FINANCIAL INTER-MEDIARIES HAS BEEN ESTABLISHED TO DISCUSS SUCH A DIRECTIVE. ALTHOUGH THE GROUP HAS MET TWO OR THREE TIMES, IT HAS ENCOUNTERED DIFFICULTY EVEN IN DEFINING THE SCOPE OF APPLICATION OF SUCH A DIRECTIVE--FOR EXAMPLE, WHETHER OR NOT IT WOULD BE LIMITED TO ACTIVITIES AT STOCK EXCHANGES.

3. ACCORDING TO COMMISSION OFFICIALS A FUTURE DIRECTIVE WOULD PRESUMABLY INCLUDE SOMETHING ON THEIR-COUNTRY BROKERS, THOUGH THIS QUESTION HAS NOT YET BEEN DISCUSSED IN THE WORKING GROUP. IN ANY CASE, THESE OFFICIALS ASSUME FULLY-ESTABLISHED THIRD-COUNTRY BROKERS (AS DISTINCT FROM BRANCHES) WOULD FALL WITHIN THE PURVIEW OF THE DIRECTIVE AS THEY DO IN THE CASE OF THE DIRECTIVE ON FREEDOM OF ESTABLISHMENT. THIS IS SO BECAUSE IT WOULD BE JURIDICALLY IMPOSSIBLE UNDER THE TREATY OF ROME TO DRAW A DISTINCTION BETWEEN FULLY-ESTABLISHED THIRD-COUNTRY BROKERS AND LOCAL ONES.

4. A DRAFT DIRECTIVE MIGHT ALSO INCLUDE A CHAPTER ON BRANCHES--FOR EXAMPLE, SETTING FORTH MINIMUM CAPITAL GUARANTEE REQUIREMENTS.

5. COMMISSION OFFICIALS EMPHASIZE THAT DISCUSSIONS ON A DRAFT DIRECTIVE ARE PROCEEDING SLOWLY AND THAT IT WILL PROBABLY BE AT LEAST THREE YEARS BEFORE A DRAFT MIGHT BE READY FOR CONSIDERATION BY THE EC COUNCIL, WHICH IN TURN MIGHT REQUIRE A FEW MORE YEARS TO APPROVE THE PROPOSAL. GREENWALD

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LAW, INVESTORS, BANKS
Control Number: n/a
Copy: SINGLE
Draft Date: 17 MAY 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: golinofr
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974ECBRU03208
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740124-0030
From: EC BRUSSELS
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740540/aaaabiwo.tel
Line Count: 96
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION TRSE
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators:
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: STATE 079749
Review Action: RELEASED, APPROVED
Review Authority: golinofr
Review Comment: n/a
Review Content Flags:
Review Date: 02 APR 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <02 APR 2002 by boyleja>; APPROVED <12 JUN 2002 by golinofr>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: FOREIGN REGULATIONS OF FOREIGN BROKERS AND UNDERWRITERS
TAGS: EFIN, EEC
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005